

THE HONORABLE JUDGE DAVID G. ESTUDILLO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN RAPP, in his Personal Capacity and as
Personal Representative of the Estate of
NICHOLAS WINTON RAPP, deceased; et al.,

Plaintiffs,

-vs-

NAPHCARE, INC., an Alabama Corporation, et
al.,

Defendants.

NO. 3:21-cv-05800-DGE

DECLARATION OF CHRISTINE M.
PALMER

NOTE ON MOTION CALENDAR:
June 23, 2023

I, Christine Palmer, declare under penalty of perjury under the laws of the State of Washington and the laws of the United States that the following is true and correct:

1. I am over the age of 18 and competent to testify to the matters set forth herein of which I have personal knowledge.

2. Plaintiffs served their initial discovery requests on the County in January 2022. Kitsap County thereafter filed a 12(b)(6) motion to dismiss all of Plaintiffs' claims against the County defendants (this motion was ultimately granted by the Court, resulting in dismissal of all claims against all Kitsap County defendants with leave for Plaintiffs to file an amended complaint).

1 On February 14, 2022, Kitsap County and Plaintiffs met and conferred regarding the status of the
2 outstanding discovery requests. Kitsap County and the Plaintiffs met and conferred again on March
3 18, 2022. In accordance with the parties' discussion, Kitsap County identified a number of written
4 discovery requests for which it would be willing to provide responses while the dispositive motion
5 was pending. Kitsap County agreed to provide limited discovery even though it took the position
6 that the Court had no jurisdiction over the parties because Plaintiffs failed to state a claim (a
7 position which was ultimately correct given the Courts initial dismissal order). On or about April
8 1, 2022, Kitsap County produced its first initial discovery responses. With these responses, Kitsap
9 County produced all jail video surveillance regarding Mr. Rapp's incarceration that had been
10 preserved by the County.
11

12
13 3. Plaintiffs' Request for Production No. 1 was extremely broad in scope and
14 requested the production of "all documents and materials that mention, reference, or relate to
15 Nicholas Rapp, including jail records, medical records, any kind of form or report, photos, texts,
16 e-mails, social media messages, diaries, notes, memos, or any other printed or electronically stored
17 information." This request was inclusive of jail records, but not limited to jail records. On its face,
18 this request demanded the production of any document "related" to Nicholas Rapp in any way.
19 Kitsap County, as a municipal subdivision of the state, could potentially have numerous categories
20 of records that might mention an individual by name. These records could include permit records,
21 property tax records, assessor records, police records, criminal files, court records, traffic
22 infractions, or any publicly recorded document. Kitsap County objected to the breadth of
23 Plaintiffs' request rather than make assumptions regarding its scope. Despite its objection, Kitsap
24 County produced all of Nicholas Rapp's known jail records and every video file preserved in
25 accordance with Plaintiffs' preservation letter. Plaintiffs never requested a discovery conference
26
27
28

1 to discuss the County's objections or to the scope of this request. Plaintiffs never clarified the
2 scope of their request.

3 4. I have been the lead counsel on this case since the lawsuit was filed. During the
4 time the County responded to Plaintiffs' discovery requests, I was engaged in an ongoing review
5 of the case materials and the case files, including the preserved video footage. I had not been
6 employed by the County during the time Plaintiffs sent their preservation letter in January 2020.
7 When the lawsuit was initiated and when our office received Plaintiffs' discovery requests, I
8 endeavored to review the case files to become familiar with the same. By April 2022, I had not yet
9 had an opportunity to review, in full depth, all 28+ hours (67 files) of the preserved video. I was
10 not aware there was a potential gap in footage from inside Mr. Rapp's unit for January 1, 2020.
11 Despite this, our office produced all known video footage that had been preserved by the County
12 and that was in the County's possession, including footage of hallways and numerous locations in
13 the jail that did not appear to show anything particularly relevant (what Plaintiffs appear to call
14 "non-descript"). We produced every preserved video file and withheld none. Our office responded
15 in accordance with our knowledge of the preserved videos at the time.

16 5. On August 9, 2022, Plaintiffs' counsel sent an email communication indicating that
17 our office provided a video file that begins at midnight. Plaintiffs' counsel asked us to provide
18 footage from the same camera from the previous afternoon, evening, or night. The next day, I
19 responded and informed counsel that we provided all the videos that the jail saved. I stated that we
20 did not have any other videos but that I would double check. Enclosed as **Exhibit A** is a true and
21 correct copy of email correspondence between counsel between August 9 and 10, 2022.

22 6. On August 15, 2022, I emailed Plaintiffs' counsel and stated that we had provided
23 several other video files from the camera in question and identified the same by listing their file
24
25
26
27
28

1 names. Counsel responded that same day and clarified that he was looking for footage from
2 1:00p.m. to midnight. Counsel also stated, “I take it from your answer below that you do not have
3 this video, and have not provided it to us, please correct me if I am wrong.” The next day, August
4 16, 2022, I responded and confirmed “We do not have a video that meets that description. We have
5 provided all the videos in our possession.” Counsel responded with “Okay. Thank you for the
6 clarification.” Enclosed as **Exhibit B** is a true and correct copy of email correspondence between
7 counsel between August 15 and 16, 2022.
8

9
10 7. On November 10, 2022, at some time during or following the 30(b)(6) deposition
11 of the County, counsel for Plaintiffs raised a concern that they were missing additional video
12 surveillance from 11:33am through 1:00pm on January 1, 2020. Later in the day, I reviewed my
13 files and identified the videos from this time period. I confirmed these files had already been
14 produced in discovery but I sent them to Plaintiffs’ counsel again. I wanted to eliminate any future
15 question regarding whether we had provided all the video files. Accordingly, several minutes later,
16 I sent a follow up email stating, “I want to make sure your office has all the video files that we
17 have.” I provided a screen shot of my own computer identifying all the video files in our
18 possession. I indicated the specific folder containing the video files from 11:33am through
19 12:59p.m. Enclosed as **Exhibit C** is a true and correct copy of correspondence with Plaintiffs’
20 counsel.
21

22
23 8. That same evening, I sent another email confirming the range of video footage
24 provided to Plaintiffs and forwarding prior correspondence with Plaintiffs’ counsel confirming
25 that Plaintiffs had already been provided video footage up until 1:00pm on January 1, 2020.
26 Enclosed as **Exhibit D** is a true and correct copy of correspondence with Plaintiffs’ counsel. I
27 asked Plaintiffs’ counsel to let me know if they believed there were any other videos they were
28

1 missing.

2 9. Counsel responded by indicating they found the files already in their possession.
3 Counsel stated, "Sorry for the fire drill." Enclosed as **Exhibit E** is a true and correct copy of
4 correspondence from Plaintiffs' counsel.
5

6 10. On September 23, 2022, Plaintiffs requested to meet and confer regarding Kitsap
7 County's responses to Interrogatory No. 14, Interrogatory No. 17, and Request for Production 18.
8 Enclosed as **Exhibit F** is a true and correct copy of email correspondence from Plaintiffs
9 requesting to meet and confer regarding discovery issues. Plaintiffs did not request to meet and
10 confer regarding Request for Production No. 1, Kitsap County's objections to the same, or any
11 topic relating to the video files that had been produced. The County, therefore, believed it met its
12 discovery obligations and that Plaintiffs were satisfied with the responses provided.
13

14 11. Enclosed as **Exhibit G** is a true and correct copy of redacted email correspondence
15 with Plaintiffs' counsel regarding ER 408 discussions. I've reviewed my email archives and this
16 was the only email I was able to locate that was exchanged with Plaintiffs counsel on April 12,
17 2022.
18

19 12. Enclosed as **Exhibit H** is a true and correct copy of September 16, 2022, email
20 correspondence from NaphCare to Plaintiffs. Attached to this email was a letter requesting that
21 Plaintiffs provide supplemental discovery responses. I've reviewed my email archives and I was
22 not able to locate any email communication between my office and Plaintiffs counsel dated
23 September 16, 2022.
24

25 13. I was tasked with preparing Kitsap County's response to Plaintiffs' motion for
26 sanctions. I spent 28.2 hours preparing the County's 19-page response brief. This time included
27 meetings and calls with clients and preparing a motion requesting to file an overlength response
28

1 brief.

2 14. I have reviewed the billing entries submitted by Plaintiffs and have summarized
3 their contents in a table enclosed as **Exhibit I**. Each entry is given an item number for ease of
4 reference. The far-right column identifies Kitsap County's objections, if any, to each billing entry.
5

6 15. Plaintiffs conducted a 30(b)(6) deposition of the County during discovery.
7 Plaintiffs' Notice of Rule 30(b)(6) Deposition of Kitsap County listed 14 separate topics of inquiry
8 for the deposition, with multiple subparts. Only 2 of the 14 topics were related to video
9 preservation. Lt. Hall was identified as the county witness for these topics (video preservation).
10 Counsel deposed Lt. Hall from approximately 9:00a.m. through 11:30a.m. (2.5 hours) on
11 November 9, 2022. Immediately following, Plaintiffs' counsel deposed Chief Sapp from
12 approximately 11:46a.m. through 3:00p.m. (3.25 hours) regarding 30(b)(6) topics unrelated to
13 video preservation.
14

15 Signed this 20th day of June, 2023 in Port Orchard, Washington.
16

17 /S/ Christine M. Palmer
18 CHRISTINE M. PALMER
19
20
21
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25
26
27
28

CERTIFICATE OF SERVICE

I certify that on June 20, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send a filing notification of such the following:


Gabriel S. Galanda
Ryan D. Dreveskracht
Corinne Sebre
Galanda Broadman, PLLC
P.O. Box 15146
Seattle, WA 98115

David A. Perez
Elvira Castillo
Juliana L. Bennington
Perkins Coie (SEA)
1201 3rd Ave, Ste 4900
Seattle, WA 98101-3099

R. Omar Riojas
Goldfarb & Huck Roth, Riojas, PLLC
925 Fourth Avenue, Ste 3950
Seattle, WA 98104

Stephanie Olson
Perkins Coie (ID)
1111 W Jefferson Street, Ste 500
Boise, ID 83702

SIGNED in Port Orchard, Washington this 20th day of June, 2023.



Batrice Fredsti, Paralegal
Kitsap County Prosecutor's Office
614 Division Street, MS-35A
Port Orchard WA 98366
Phone: 360-337-7032

Exhibit A

Christine Palmer

From: Christine M. Palmer
Sent: Wednesday, August 10, 2022 7:38 AM
To: Ryan Dreveskracht
Cc: Corinne Sebren; Butler, Shawn Q.; lone S. George; gabe@galandabroadman.com; Corey, David J.; Allen, Alexis K.; Hsieh, Daniel J.; Rachael Shulman; alice@galandabroadman.com; Mark, Jenna R.; Hoover, Christopher D.; Ana Maria Garnier; Emmerson Donnell; Eastley, Susan; Batrice Fredsti
Subject: Re: Rapp v. Naphcare

Thank you Ryan.

Regarding videos, we have provided all videos that the jail saved. We don't have any other videos, but I'll double check just to be sure.

Christy

From: Ryan Dreveskracht <ryan@galandabroadman.com>
Sent: Tuesday, August 9, 2022 4:44 PM
To: Christine M. Palmer <cmpalmer@kitsap.gov>
Cc: Corinne Sebren <corinne@galandabroadman.com>; Butler, Shawn Q. <sbutler@helsell.com>; lone S. George <lGeorge@kitsap.gov>; gabe@galandabroadman.com <gabe@galandabroadman.com>; Corey, David J. <dcorey@helsell.com>; Allen, Alexis K. <aallen@helsell.com>; Hsieh, Daniel J. <dhsieh@helsell.com>; Rachael Shulman <rachael@galandabroadman.com>; alice@galandabroadman.com <Alice@galandabroadman.com>; Mark, Jenna R. <jmark@helsell.com>; Hoover, Christopher D. <choover@helsell.com>; Ana Maria Garnier <anamaria@galandabroadman.com>; Emmerson Donnell <emmerson@galandabroadman.com>; Eastley, Susan <seastley@helsell.com>; Batrice Fredsti <bfredsti@kitsap.gov>
Subject: Re: Rapp v. Naphcare

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Hi Christine,

This is from Megan:

[REDACTED]

On another note, I have a similar follow up question. You have provided us with a video file 1 - 2020-01-02 00-00-00-527 that begins at midnight. But we have not received the same camera's recordings from the previous afternoon, evening, or night. Or at least I can't find it in the materials provided. Can you please identify or provide this video?

Thanks,

On Tue, Aug 9, 2022 at 3:33 PM Christine M. Palmer <cmpalmer@kitsap.gov> wrote:

Hello Ryan,

In the medical records [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Thank you,

Christy

--

Ryan D. Dreveskracht

Attorney at Law
Galanda Broadman, PLLC
8606 35th Avenue NE, Ste. L1
P.O. Box 15146
Seattle, WA 98115
m: 206.909.3842
f: 206.299.7690
ryan@galandabroadman.com
www.galandabroadman.com

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Exhibit B

Christine Palmer

From: Ryan Dreveskracht <ryan@galandabroadman.com>
Sent: Tuesday, August 16, 2022 4:41 PM
To: Christine M. Palmer
Cc: Corinne Sebren; Butler, Shawn Q.; lone S. George; gabe@galandabroadman.com; Corey, David J.; Allen, Alexis K.; Hsieh, Daniel J.; Rachael Shulman; alice@galandabroadman.com; Mark, Jenna R.; Hoover, Christopher D.; Ana Maria Garnier; Emmerson Donnell; Eastley, Susan; Batrice Fredsti
Subject: Re: Rapp v. Naphcare

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Okay. Thank you for the clarification.

On Tue, Aug 16, 2022 at 4:37 PM Christine M. Palmer <cmpalmer@kitsap.gov> wrote:

We do not have a video that meets that description. We have provided all the videos in our possession. I am confirming with our client to confirm that they do not have additional video files from midnight to 1:00 p.m. on January 1, 2020

Christy

From: Ryan Dreveskracht <ryan@galandabroadman.com>
Sent: Monday, August 15, 2022 9:41 PM
To: Christine M. Palmer <cmpalmer@kitsap.gov>
Cc: Corinne Sebren <corinne@galandabroadman.com>; Butler, Shawn Q. <sbutler@helsell.com>; lone S. George <lGeorge@kitsap.gov>; gabe@galandabroadman.com; Corey, David J. <dcorey@helsell.com>; Allen, Alexis K. <aallen@helsell.com>; Hsieh, Daniel J. <dhsieh@helsell.com>; Rachael Shulman <rachael@galandabroadman.com>; alice@galandabroadman.com; Mark, Jenna R. <jmark@helsell.com>; Hoover, Christopher D. <choover@helsell.com>; Ana Maria Garnier <anamaria@galandabroadman.com>; Emmerson Donnell <emmerson@galandabroadman.com>; Eastley, Susan <seastley@helsell.com>; Batrice Fredsti <bfredsti@kitsap.gov>
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Hi Christy,

Correct, and I believe all of those are from roughly midnight to roughly 1:00 p.m. on January 1, 2020.

What is missing, as I indicated below, is 1:00 p.m. to midnight. While I take it from your answer below that you do not have this video, and have not provided it to us, please correct me if I'm wrong.

Thank you,

On Mon, Aug 15, 2022 at 5:31 PM Christine M. Palmer <cmpalmer@kitsap.gov> wrote:

Hello Ryan,

I checked the files we gathered and sent to your office in response to RFP No. 1 and we provided several video files from that same camera.

The files that I most easily identify have the following file names:

1-2020-01-01 11-33-00-539

1-2020-01-01 09-30-00-195

1-2020-01-01 08-57-00-334

1-2020-01-01 00-40-00-458

Christy

From: Ryan Dreveskracht <ryan@galandabroadman.com>

Sent: Tuesday, August 9, 2022 4:45 PM

To: Christine M. Palmer <cmpalmer@kitsap.gov>

Cc: Corinne Sebren <corinne@galandabroadman.com>; Butler, Shawn Q. <sbutler@helsell.com>; Lone S. George <lGeorge@kitsap.gov>; gabe@galandabroadman.com; Corey, David J. <dcorey@helsell.com>; Allen, Alexis K. <aallen@helsell.com>; Hsieh, Daniel J. <dhsieh@helsell.com>; Rachael Shulman <rachael@galandabroadman.com>; alice@galandabroadman.com; Mark, Jenna R. <jmark@helsell.com>; Hoover, Christopher D. <choover@helsell.com>; Ana Maria Garnier <anamaria@galandabroadman.com>; Emmerson Donnell <emmerson@galandabroadman.com>; Eastley, Susan <seastley@helsell.com>; Batrice Fredsti <bfredsti@kitsap.gov>

Subject: Re: Rapp v. Naphcare

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Hi Christine,

This is from Megan:

[REDACTED]

On another note, I have a similar follow up question. You have provided us with a video file 1 - 2020-01-02 00-00-00-527 that begins at midnight. But we have not received the same camera's recordings from the previous afternoon, evening, or night. Or at least I can't find it in the materials provided. Can you please identify or provide this video?

Thanks,

On Tue, Aug 9, 2022 at 3:33 PM Christine M. Palmer <cmpalmer@kitsap.gov> wrote:

Hello Ryan,

In the medical records [REDACTED]

Thank you,

Christy

Exhibit C

Christine Palmer

From: Christine M. Palmer
Sent: Thursday, November 10, 2022 5:39 PM
To: ryan@galandabroadman.com; corinne@galandabroadman.com; anamaria@galandabroadman.com; alice@galandabroadman.com; rachael@galandabroadman.com; emmerson@galandabroadman.com
Cc: lone S. George; Katherine A Cummings; Batrice Fredsti
Subject: RE: Rapp v NaphCare - surveillance footage

Sorry for all the emails!

The email that I sent at the bottom of this chain that contains the video files as an attachment was rejected by your servers as spam. However as discussed in my last email sent just to you and Corinne, your firm does have video footage from 11:33am – 12:59:59pm. I will try to have my paralegal send them to you again on Monday through a download link (we are off tomorrow for Veterans Day).

Christy

From: Christine M. Palmer
Sent: Thursday, November 10, 2022 5:30 PM
To: Allen, Alexis K. <aallen@helsell.com>; ryan@galandabroadman.com; corinne@galandabroadman.com; anamaria@galandabroadman.com; alice@galandabroadman.com; rachael@galandabroadman.com; emmerson@galandabroadman.com; lone S. George <lGeorge@kitsap.gov>; Katherine A Cummings <KACummings@kitsap.gov>; Batrice Fredsti <bfredsti@kitsap.gov>
Cc: Corey, David J. <dcorey@helsell.com>; Butler, Shawn Q. <sbutler@helsell.com>; Mark, Jenna R. <jmark@helsell.com>; Driscoll, Hannah E. <hdriscoll@helsell.com>; Eastley, Susan <seastley@helsell.com>
Subject: RE: Rapp v NaphCare - surveillance footage

Ryan,

I want to make sure your office has all the video files that we have. Our office provided video surveillance in response to RFP 1 as well as in response to RFPs 5 and 6. The videos provided in response to RFP 1 are more complete. Hopefully, your office has all video responsive to RFP 1.

Below is a screenshot of all the folders that contain the video files produced in response to RFP 1. Let me know if you think there are any other folders that your office may not have. The highlighted folder is the folder that contains the two video files from 1/1/2020 11:33am through 12:59:59, which I just sent over.

already viewed	3/29/2022 2:15 PM	File folder
Export_2020-02-03_101116	3/29/2022 2:15 PM	File folder
Export_2020-02-03_102222	3/29/2022 2:15 PM	File folder
Export_2020-02-03_103212	3/29/2022 2:15 PM	File folder
Export_2020-02-03_110919	3/29/2022 2:15 PM	File folder
Export_2020-02-03_112023	3/29/2022 2:15 PM	File folder
Export_2020-02-03_120057	3/29/2022 2:15 PM	File folder
Export_2020-02-03_121115	3/29/2022 2:15 PM	File folder
Export_2020-02-03_122117	3/29/2022 2:15 PM	File folder
Export_2020-02-03_125448	3/29/2022 2:15 PM	File folder
Export_2020-02-04_130047	3/29/2022 2:15 PM	File folder
✻ Export_2020-02-03_120057	2/3/2020 12:05 PM	Windows Media Audio/...
✻ Export_2020-02-03_121115	2/3/2020 12:19 PM	Windows Media Audio/...
✻ Export_2020-02-03_122117	2/3/2020 12:27 PM	Windows Media Audio/...
✻ Export_2020-02-03_125448	2/3/2020 1:47 PM	Windows Media Audio/...
✻ Export_2020-02-04_130047	2/4/2020 1:13 PM	Windows Media Audio/...

Christy

From: Christine M. Palmer

Sent: Thursday, November 10, 2022 5:15 PM

To: 'Allen, Alexis K.' <aallen@helsell.com>; ryan@galandabroadman.com; corinne@galandabroadman.com; anamaria@galandabroadman.com; alice@galandabroadman.com; rachael@galandabroadman.com; emmerson@galandabroadman.com; Ione S. George <lGeorge@kitsap.gov>; Katherine A Cummings <KACummings@kitsap.gov>; Batrice Fredsti <bfredsti@kitsap.gov>

Cc: Corey, David J. <dcorey@helsell.com>; Butler, Shawn Q. <sbutler@helsell.com>; Mark, Jenna R. <jmark@helsell.com>; Driscoll, Hannah E. <hdriscoll@helsell.com>; Eastley, Susan <seastley@helsell.com>

Subject: Rapp v NaphCare - surveillance footage

Hello All,

Enclosed is Jan 1, 2020 surveillance footage from 11:33am through 12:59:59. Our records show that these were sent with the other videos as part of our discovery download link. Not sure what happened but we are happy to provide them again.

Christy

Exhibit D

Christine Palmer

From: Christine M. Palmer
Sent: Thursday, November 10, 2022 5:34 PM
To: ryan@galandabroadman.com; Corinne Sebren
Cc: Batrice Fredsti
Subject: FW: Rapp v. Naphcare

I am now being paranoid about whether we provided all the videos. In the email exchange with you below, it appears your office did receive and have footage up until 1pm on January 1, 2020 - including the videos I just provided to you tonight.

Let me know ASAP if you believe there are any other videos you are missing.

Thanks.

Christy

From: Ryan Dreveskracht <ryan@galandabroadman.com>
Sent: Monday, August 15, 2022 9:41 PM
To: Christine M. Palmer <cmpalmer@kitsap.gov>
Cc: Corinne Sebren <corinne@galandabroadman.com>; Butler, Shawn Q. <sbutler@helsell.com>; Ione S. George <IGeorge@kitsap.gov>; gabe@galandabroadman.com; Corey, David J. <dcorey@helsell.com>; Allen, Alexis K. <aallen@helsell.com>; Hsieh, Daniel J. <dhsieh@helsell.com>; Rachael Shulman <rachael@galandabroadman.com>; alice@galandabroadman.com; Mark, Jenna R. <jmark@helsell.com>; Hoover, Christopher D. <choover@helsell.com>; Ana Maria Garnier <anamaria@galandabroadman.com>; Emmerson Donnell <emmerson@galandabroadman.com>; Eastley, Susan <seastley@helsell.com>; Batrice Fredsti <bfredsti@kitsap.gov>
Subject: Re: Rapp v. Naphcare

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Hi Christy,

Correct, and I believe all of those are from roughly midnight to roughly 1:00 p.m. on January 1, 2020.

What is missing, as I indicated below, is 1:00 p.m. to midnight. While I take it from your answer below that you do not have this video, and have not provided it to us, please correct me if I'm wrong.

Thank you,

On Mon, Aug 15, 2022 at 5:31 PM Christine M. Palmer <cmpalmer@kitsap.gov> wrote:

Hello Ryan,

I checked the files we gathered and sent to your office in response to RFP No. 1 and we provided several video files from that same camera.

The files that I most easily identify have the following file names:

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1-2020-01-01 09-30-00-195

1-2020-01-01 08-57-00-334

1-2020-01-01 00-40-00-458

Christy

From: Ryan Dreveskracht <ryan@galandabroadman.com>

Sent: Tuesday, August 9, 2022 4:45 PM

To: Christine M. Palmer <cmpalmer@kitsap.gov>

Cc: Corinne Sebren <corinne@galandabroadman.com>; Butler, Shawn Q. <sbutler@helsell.com>; Ione S. George <lGeorge@kitsap.gov>; gabe@galandabroadman.com; Corey, David J. <dcorey@helsell.com>; Allen, Alexis K. <aallen@helsell.com>; Hsieh, Daniel J. <dhsieh@helsell.com>; Rachael Shulman <rachael@galandabroadman.com>; alice@galandabroadman.com; Mark, Jenna R. <jmark@helsell.com>; Hoover, Christopher D. <choover@helsell.com>; Ana Maria Garnier <anamaria@galandabroadman.com>; Emmerson Donnell <emmerson@galandabroadman.com>; Eastley, Susan <seastley@helsell.com>; Batrice Fredsti <bfredsti@kitsap.gov>

Subject: Re: Rapp v. Naphcare

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Hi Christine,

This is from Megan:

[REDACTED]

Exhibit E

Christine Palmer

From: Christine M. Palmer
Sent: Thursday, November 10, 2022 5:44 PM
To: Ryan Dreveskracht
Cc: corinne@galandabroadman.com; anamaria@galandabroadman.com; alice@galandabroadman.com; rachael@galandabroadman.com; emmerson@galandabroadman.com; lone S. George; Katherine A Cummings; Batrice Fredsti
Subject: RE: Rapp v NaphCare - surveillance footage

Great- thanks for the quick response.

From: Ryan Dreveskracht <ryan@galandabroadman.com>
Sent: Thursday, November 10, 2022 5:42 PM
To: Christine M. Palmer <cmpalmer@kitsap.gov>
Cc: corinne@galandabroadman.com; anamaria@galandabroadman.com; alice@galandabroadman.com; rachael@galandabroadman.com; emmerson@galandabroadman.com; lone S. George <lGeorge@kitsap.gov>; Katherine A Cummings <KACummings@kitsap.gov>; Batrice Fredsti <bfredsti@kitsap.gov>
Subject: Re: Rapp v NaphCare - surveillance footage

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No need. Your previous email pointed me in the right direction. We have it.

Sorry for the fire drill. Have a nice (long) weekend.

On Thu, Nov 10, 2022 at 5:38 PM Christine M. Palmer <cmpalmer@kitsap.gov> wrote:

Sorry for all the emails!

The email that I sent at the bottom of this chain that contains the video files as an attachment was rejected by your servers as spam. However as discussed in my last email sent just to you and Corinne, your firm does have video footage from 11:33am – 12:59:59pm. I will try to have my paralegal send them to you again on Monday through a download link (we are off tomorrow for Veterans Day).

Christy

From: Christine M. Palmer
Sent: Thursday, November 10, 2022 5:30 PM

Exhibit F

From: Ryan Dreveskracht
To: Christine M. Palmer
Cc: Ana Maria Garnier; Eastley, Susan; Corinne Sebre; Rachael Shulman; Batrice Fredsti; Ione S. George; Allen, Alexis K.; Corey, David J.; Hoover, Christopher D.; Mark, Jenna R.; Butler, Shawn Q.; Emmerson Donnell; Katherine A Cummings
Subject: Re: Rapp v NaphCare - Objections to 30(b)(6) notice to County
Date: Friday, September 23, 2022 11:52:05 AM

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Hi Christy,

Looking forward to our conversation. We would also like to address some supplemental discovery that we're owed:

Interrogatory No. 14: In light of concerns voiced in your May 17 letter, on May 22 we limited the request to "Kitsap County custom, practice, policy, or procedure governing the supervision and care of Nicholas Rapp during his Subject Confinement in the Kitsap County." This simply requires the County to identify any known policy violations applicable to Mr. Rapp's care and custody. We are entitled to this information. If the County is going to argue at trial that no policy violations occurred, we need to know that. If the County is going to admit that some policy violations occurred, we need to know that too. This inquiry is highly relevant to Plaintiffs' *Monell* claim. *See, e.g., LaLonde v. Cnty. of Riverside*, 204 F.3d 947, 961 (9th Cir. 2000).

Interrogatory No. 17: The County supplemented its Response on June 13. The supplement identified 7 in-custody suicide deaths and 74 known suicide attempts but refused to provide documents that contain information regarding the facts and circumstances surrounding those suicides and suicide attempts. First, the County cites a state privilege law that is clearly inapplicable. *See Armstrong v. Cnty. of Kitsap*, No. 04-5461, 2005 WL 8173158, at *1 (W.D. Wash. Apr. 27, 2005) ("State privilege doctrine, whether derived from statutes or court decisions, is not binding on federal courts in these kinds of cases.") (quoting *Kelly v. City of San Jose*, 114 F.R.D. 653 (N.D. Cal. 1987)). In addition the Court has entered a protective order. Any concerns about confidentiality can easily be addressed by marking the responsive documents "confidential." Second, the County submits that the information sought is not relevant. In the County's Second Motion to Dismiss it asserts that Plaintiffs' pleading should be dismissed because it does not identify "prior instances of constitutional violations" that are "similar." Dkt. # 64, at 17. Yet, in response to Interrogatory 17, the County claims that information regarding previous suicides and suicide attempts is irrelevant. To the contrary, this information is highly relevant.

Request for Production No. 18. Plaintiffs specifically requested that any "purely personal information such as dates of birth, home addresses, social security numbers, and information that is purely related to non-bonus compensation and employment benefits" be excluded from a response. In addition, Plaintiffs have agreed to a protective order that would keep this information confidential. Plaintiffs are not looking to "generally search" personnel files. The

records Plaintiffs seek are specific: “all training records, contracts, complaints, grievances, performance reviews, disciplinary records, records reflecting dates of hire and change in title or position, records reflecting policies, procedures and protocols, and records reflecting bonus compensation and correspondence or documentation relating thereto.” Such information is relevant to Plaintiffs’ *Monell* and failure to train claims. For the sake of compromise, however, Plaintiffs will limit their request to Defendant John Petersen’s personnel file only.

Have a good weekend,

On Fri, Sep 23, 2022 at 9:23 AM Christine M. Palmer <cmpalmer@kitsap.gov> wrote:

Ryan,



Exhibit G

From: Ryan Dreveskracht
To: Christine M. Palmer
Cc: Wendy Foster; Batrice Fredsti; Ione S. George; Rachael Shulman
Subject: Re: Rapp v. Kitsap County -- Confidential ER 408 Communication
Date: Tuesday, April 12, 2022 10:03:30 AM
Attachments: image001.png

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Hi Christine,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit H

From: [Hoover, Christopher D.](#)
To: [ryan@galandabroadman.com](#); [corinne@galandabroadman.com](#); [anamaria@galandabroadman.com](#); [alice@galandabroadman.com](#); [rachael@galandabroadman.com](#); [emmeron@galandabroadman.com](#); [Ione S. George](#); [Christine M. Palmer](#); [Batrice Fredsti](#)
Cc: [Corey, David J.](#); [Butler, Shawn Q.](#); [Mark, Jenna R.](#); [Allen, Alexis K.](#); [Eastley, Susan](#); [Hoover, Christopher D.](#)
Subject: Rapp v NaphCare Inc.
Date: Friday, September 16, 2022 2:02:50 PM
Attachments: [22-09-19 Mark Ltr to Dreveskracht.pdf](#)

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Good afternoon,

Please see the attached letter from Ms. Mark.

Sincerely,

Chris Hoover | Helsell Fetterman LLP

Legal Assistant to Sarah Elerson, Jenna Mark, Rabia Ahmad, and Phil Chu

direct | 206.689.2103

fax | 206.340.0902

choover@helsell.com

Exhibit I

Summary of Billing Entries for Claimed Attorney Fees

Item	Date	Keeper	Hrs	Amount	Description	OBJECTION
1.	12/2/20	RD	.2	110	Emails with client and research re spoliation	Premature/Not Caused by Spoliation
2.	4/11/22	RD	1.5	825	Review and analyze video of incident; emails to clients re: the same	Unrelated/Not Caused by Spoliation/Block Billing
3.	4/12/22	RD	7	3,850	Emails with clients and OC; review and analyze video and discovery responses	Unrelated/Not Caused by Spoliation/Block Billing
4.	4/14/22	RD	6.8	3,740	Review and analyze video and discovery responses	Unrelated/Not Caused by Spoliation/Block Billing
5.	4/15/22	RD	4	2,200	Review and analyze video and discovery responses; facts re: SJ	Unrelated/Not Caused by Spoliation/Block Billing
6.	4/18/22	RD	6.2	3,410	Review and analyze video and discovery responses; facts re: SJ	Unrelated/Not Caused by Spoliation/Block Billing
7.	4/20/22	RD	6.1	3,355	Review and analyze video and discovery responses; facts re: SJ; draft second discovery requests to NaphCare	Unrelated/Not Caused by Spoliation/Block Billing
8.	4/21/22	RD	6.9	3,795	Review and analyze video and discovery responses; facts re: SJ; emails re: second discovery requests to NaphCare	Unrelated/Not Caused by Spoliation/Block Billing
9.	9/14/22	RD	5	2,750	Research re: deleted video, dep prep and discovery prep re: the same; draft 30(b)(6) notice	Unrelated/Not Caused by Spoliation/Block Billing
10.	9/15/22	CS	.4	140	Review and revise Draft NOD for 30(b)(6)	Unrelated/Not Caused by Spoliation/Block Billing
11.	9/16/22	CS	.2	70	Review and respond to correspondence from OC re: discovery	Unrelated/Not Caused by Spoliation/Block Billing
12.	11/9/22	??	.2	10	Shared exhibits with reporter and OC	Unrelated/Not Caused by Spoliation/Block Billing/Administrative

13.	11/9/22	RD	5.4	2,970	Conduct video deletion dep, research and draft motion for spoliation sanctions	
14.	11/9/22	RS	4	1,400	30b6 deposition	Unrelated/Not Caused by Spoliation/Block Billing
15.	11/10/22	RD	4.2	2,310	Research and draft motion for spoliation sanctions	
16.	11/11/22	RD	1.2	660	Research and draft motion for spoliation sanctions	
17.	11/16/22	RD	2.0	1,100	Research and draft motion for sanctions	
18.	11/16/22	RD	6.0	3,300	Research and draft motion for spoliation sanctions	
19.	11/17/22	??	1	50	Organized exhibits and drafted declaration	Administrative
20.	11/17/22	RD	6	3,300	Research and draft motion for sanctions	
21.	11/18/22	RD	6	3,300	Research and draft motion for sanctions	
22.	11/21/22	RD	6.0	3,300	Research and draft motion for sanctions	Excessive
23.	11/22/22	RD	5.9	3,245	Research and draft motion for sanctions	Excessive
24.	11/22/22	RS	1.2	420	Correspondence with RD re: motion for spoliation sanctions	Excessive
25.	11/23/22	RD	3.2	1,760	Research and draft motion for sanctions	Excessive
26.	11/24/22	RD	1.1	605	Research and draft motion for sanctions	Excessive
27.	12/1/22	RD	1.3	715	Research, draft, and finalize sanctions motion	Excessive
28.	12/5/22	RD	6.3 or 2.0	3,465	Research, draft, and finalize sanctions motion	Excessive/Time entry unclear – 6.3 or 2.0?
29.	12/6/22	RD	2.1	1,155	Research, draft, and finalize sanctions motion	Excessive
30.	12/7/22	RD	2.1	735	Review and revise motion for sanctions	Excessive

					for spoliation of evidence	
31.	12/8/22	??	4	400	Organized, slipsheeted and redacted exhibits	Administrative
32.	12/19/22	RD	7.9 or 3.0?	4,345	Research and draft reply re: motion for terminating sanctions	Time entry incorrect – only allow 3.0 hours (\$1,650)
33.	12/20/22	RD	9.2	5,060	Research and draft reply re: motion for terminating sanctions	
34.	12/21/22	RD	1.5	825	Research and draft reply re: motion for terminating sanctions	Excessive
35.	12/22/22	RD	5.9	3,245	Research and draft reply re: motion for terminating sanctions	Excessive
36.	12/23/22	RD	2.5	1,375	Research and draft reply re: motion for terminating sanctions	Excessive
37.	4/18/23	RD	4.4	2,420	Research and draft ordered jury instructions	
38.	4/18/23	CS	1.9	665	Review and analyze minute order re: request for supplemental briefing on sanctions motion and confer with GB and team re: same; meet and confer with GB team re: praecipe for declaration document	Excessive/Duplicative work
39.	4/19/23	RD	3.1	1,705	Research and draft ordered jury instruction	Excessive
40.	4/19/23	RD	.6	210	Review and revise draft response re: order requesting supplemental briefing on motion for sanctions	Excessive
41.	4/20/23	RD	1.2	420	Review and finalize draft response re: order requesting supplemental briefing	Excessive

					on motion for sanctions; review and analyze NC notice of intent to comment on proposed adverse jury instructions and confer with GB team re same	
42.	4/24/23	RD	1	550	Review and analyze county proposed instruction; research, draft, and finalize proposed instruction	Excessive
43.	5/31/23	RD	1.1	605	Review and analyze order on spoliation sanctions; call with client re order on spoliation sanctions; conference with colleagues re: the same, review and analyze docket re: status conference and pending motions that may be moot.	
44.	5/31/23	CS	2.5 Or 2.7?	945	Review and analyze Order on Motion for Sanctions and confer with GB team re: same	Excessive/Unnecessary/Time entry unclear – 2.5 hours or 2.7 hours?
45.	5/31/23	??	.5	50	Discuss incoming order regarding spoliation sanctions against KC with team	Excessive/Unnecessary